

## Genesys Industries, Inc

### Terms & Conditions of Sale

#### 1. Applicability

These terms and conditions of sale (these "**Terms**") are the only terms that govern the sale of the goods ("**Goods**") by Genesys Industries, Inc. Products ("**Seller**") named on the accompanying quotation, order confirmation, order acknowledgement, confirmation of sale, or invoice (as applicable, the "**Sales Confirmation**") to the buyer named on the Sales Confirmation ("**Buyer**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. Except as set forth in the preceding sentence, these Terms may only be amended or modified in writing which specifically states that it amends these Terms and is signed by an authorized representative of each party. The Sales Confirmation and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Buyer's general or standard terms and conditions of purchase are rejected regardless of whether or when Buyer has submitted its purchase order or such terms unless expressly agreed to in writing by the Seller prior to the sale of the Goods. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

#### 2. Shipping and Delivery

The Goods will be delivered within a reasonable time after the receipt of the Buyer's purchase order, subject to the availability of finished Goods. Seller shall not be liable for any delays, loss, or damage in transit. Unless otherwise set forth in the Sales Confirmation, Seller delivery shall be made FOB Seller's location of manufacture (the "**Delivery Point**"), and Seller shall deliver to the Delivery Point using Seller's standard methods for packaging and shipping such Goods. Seller may, in its sole discretion, without liability or penalty, make partial shipments of Goods to Buyer. Each shipment will constitute a separate sale, and the Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of the Buyer's purchase order. If Seller delivers to Buyer a number of Goods of up to 90% more or less than the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Sales Confirmation adjusted pro-rata. Title and risk of loss pass to Buyer upon delivery of the Goods at the Delivery Point. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title, and interest of Buyer in to, and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Uniform Commercial Code as adopted by the state where the Goods are shipped.

### 3. Inspection and Rejection of Nonconforming Goods

The buyer shall inspect the Goods within ten business days of receipt ("**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any Nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as reasonably required by Seller.

"**Nonconforming Goods**" means only the following: (i) product shipped is different than identified in Buyer's purchase order; or (ii) product's label or packaging incorrectly identifies its contents. If Buyer timely notifies Seller of any Nonconforming Goods, Seller shall, in its sole discretion, (i) replace such Nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such Nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at Seller's expense and risk of loss, the Nonconforming Goods to Seller's facility. If Seller exercises its option to replace Nonconforming Goods, Seller shall, after receiving Buyer's shipment of Nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Delivery Point. Buyer acknowledges and agrees that the remedies set forth in this Section 3 are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under this Section 3, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

### 4. Price

Buyer shall purchase the Goods from Seller at the price or prices (the "**Prices**") set forth in the Sales Confirmation and Order Confirmation. The Prices are based on existing labor and material costs and are subject to revision by the Seller if either is revised prior to shipment of the Goods. All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs, and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personnel, or real or personal property or other assets.

### 5. Payment Terms

Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall make all payments hereunder by ACH, wire transfer or check and in US dollars. The buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the delivery of any Goods if Buyer fails to pay any amounts when due hereunder and such failure continues for 10 days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy, or otherwise.

## 6. Limited Warranty

(a) Seller warrants to Buyer for a period of one year from the date of shipment of the Goods ("**Warranty Period**"), that such Goods will (i) be free from defects in material and workmanship, (ii) if the Goods were designed by or manufactured to specifications of Buyer, conform to the specifications provided by Buyer, (iii) if the Goods were designed by Seller, conform to Seller's published specifications in effect as of the date of shipment and (iv) if the Goods were designed by Seller, be free from defects in design. The foregoing warranties do not apply where Goods: (A) have been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper storage, improper handling, abnormal physical stress, abnormal environmental conditions, or use contrary to any specifications or to any instructions issued by Seller or (B) have been reconstructed, repaired, altered or modified by persons other than Seller. **SELLER EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

(b) Seller shall not be liable for a breach of the warranty set forth in Section 6(a) unless: (i) Buyer gives written notice of the defect, reasonably described, to Seller within 10 days of the time when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such Goods, and Buyer (if requested to do so by Seller) returns such Goods to Seller's place of business at Seller's cost for the examination to take place there, and (iii) Seller reasonably verifies Buyer's claim that the Goods are defective.

(c) With respect to any Goods failing to comply with the limited warranty set forth in Section 6(a), Seller shall, in its sole discretion, either: (i) repair or replace such Goods (or the defective part) or (ii) credit or refund the price of such Goods at the pro-rata contract rate; provided that, if Seller so requests, Buyer shall, at Seller's expense, return such Goods to Seller. **THE REMEDIES SET FORTH IN THIS SECTION 6(C) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 6(A).**

## 7. Limitation of Liability

**IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL THE SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO THE SELLER FOR THE GOODS SOLD HEREUNDER (THE "CAP").** The Cap shall not apply to (a) liability resulting from Seller's willful misconduct or (b) death or bodily injury resulting from Seller's negligent acts or omissions.

## 8. Compliance with Law

The buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement. Buyer shall comply with all export and import laws of all countries involved in the sale of the Goods under this Agreement or any resale of the Goods by Buyer. The buyer assumes all responsibility for shipments of Goods requiring any government import clearance. Seller may terminate this Agreement if any governmental authority imposes antidumping or countervailing duties or any other penalties on Goods.

## 9. Termination

In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

## 10. Waiver

No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement operates or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

## 11. Confidential Information

All non-public, confidential or proprietary information of Seller, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section 11. This Section 11 does not apply to information that is: (a) in the public domain other by Buyer; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

## 12. Tooling

Payment of initial charges for tooling (including tools, dies, jigs, fixtures, patterns, and gages) supplied by Seller conveys neither ownership nor the right of removal, which a Buyer may obtain only by making a fair reimbursement, as agreed upon between Buyer and Seller, for the total cost of said items for their maintenance and storage. Seller agrees to keep tooling in reasonably good condition, less ordinary wear and tear so long as it remains in Seller's control Seller shall have no responsibility or liability for the tooling's operation thereafter. Seller may scrap tooling after the tooling has been inactive for a period of two (2) years so long it upon sixty (60) days prior written notification to Buyer unless directions to the contrary are received within the sixty days. Any resulting scrap value of tooling shall inure to Seller as payment for storage and maintenance costs. Buyer will be charged for costs incurred by Seller in connection with the adaptation, modification, or excessive maintenance of tooling furnished by the Buyer.

### 13. Force Majeure

Seller shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Seller including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

### 14. Indemnification of Buyer

If the Goods were designed by or manufactured to specifications of Buyer, Buyer shall indemnify Seller from, and defend and hold Seller harmless from and against, any claims, proceedings, damages, costs, expenses, and liabilities suffered, incurred, or sustained by Seller or to which Seller becomes subject, resulting from, arising out of or relating to any claim: (a) that the Goods infringe upon the proprietary or other rights of any third party or (b) of loss or damage resulting from the Goods or the use thereof. This indemnity, defense and hold harmless agreement applies even if the loss or damage complained of in the action was allegedly caused in part by the strict liability or negligence in any form of the Seller, but not if the loss or damage is alleged to have been caused in whole by the strict liability or negligence of the Seller and solely relates to a manufacturing defect.

### 15. Governing Law / Jurisdiction

All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of Seller set forth on the face of the Sales Confirmation without giving effect to any choice or conflict of law provision or rule (whether of such State or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of such State. The parties exclude the application of the United Nations Convention on Contracts for the International Sale of Goods. The parties hereby agree that the exclusive jurisdiction and venue for any action arising out of, involving, or in any way related to this Agreement shall be the federal or state courts located in a Court located in the City of Seller as set forth on the face of the Sales Confirmation or if there are no such courts in such City, the County of Seller, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

### 16. Terms and Conditions of Sale

Additional terms and conditions of sale may apply.



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## 17. Miscellaneous

Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this order. Such terms include, but are not limited to, the following provisions: Sections 6, 7, 8, 11, 13, 14, and this sentence of Section 15.

For any questions, comments, or inquiries, you may contact us at:

### By Mail:

Genesys Industries, Inc.  
Data Privacy Officer  
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### By Email:

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